



CONTRACT LAW DIVISION

Office of the Assistant General Counsel for Finance and Litigation



Biweekly Report—Period Ending March 27, 1999

Arthur E. Lees v. DoC—GAO No. B-282281.1

Arthur E. Lees, an applicant for a Commercial Representative position with the U.S. & Foreign Commercial Service in Chengdu, P.R.C., has filed a bid protest against both the Department and the Department of State, which is acting as Commerce's servicing agency. Mr. Lees, who has previously filed similar bid protests, once again claims that Commerce lacks the requisite authority to procure personal services and that State has violated various procurement statutes and regulations. The Commerce and State Departments are filing a joint motion for dismissal requesting that GAO dismiss this latest protest from Mr. Lees on the basis that the protest is untimely. (Lisa J. Obayashi)

OAM/Datex, Inc. Contract

OAM and BXA requested an opinion on whether it was proper for the agency to pay \$6000+ as "interest expense" as part of an invoice submitted by a contractor. Two CLINs in the contract defined "handling charges" as "the actual cost charged by a bank or lending institution (i.e. credit care or revolving credit line) on monies used to purchase Materials...." "Materials" are defined as travel costs, hotel accommodations, per diem and translation services. CLD advised that payment of interest charges violated FAR § 31.205-20, in that payment of interest is unallowable. We also questioned whether interest charges could be considered handling charges at all. CLD recommended that OAM not pay the interest charges, give consideration to recoupment of prior payments (if it was worth it) and pay for services rendered. Terry H. Lee)

EASC/Disaster Relief for New England Fishermen

OGC, EASC, NMFS and NOAA counsel communicated on issues relating to providing fishermen "disaster relief" under FY 1999 emergency Congressional legislation. Issues concerned primarily the manner in which the money could legally be distributed to fishermen who are affected by the closure of ground fisheries. (Terry H. Lee).

National Advertising for Recruitment Procurement

We are working with the project team to develop a draft Statement of Work and Project Agreement. This Census Bureau procurement will provide advertising services to publicize the availability of temporary employment in Local Census Offices and for Census enumeration. (Fred Kopatich & Amy Freeman)

Boulder FSL Supercomputer

The RFP for this acquisition has been released. We are currently in the process of answering vendor questions. (Mark Langstein)

High Structure Maintenance, Inc.-Agency Protest

High Structure Maintenance, Inc. has challenged NOAA/OSF's intent to procure on a sole-source basis, radome maintenance and engineering services from ESSCO. The agency level protest decision authority is seeking guidance as the procurement and program offices are not in agreement as to the Government's position. (Lisa J. Obayashi)

CLD "Time to Complete"—5.4 Days

**Actions by Contract Law Division during Period
From 3/14/99 To 3/27/99**

Bureau	Received	Completed
BXA	1	1
CENSU	2	1
NIST	7	7
NOAA	10	13
NTIS	1	1
PTO	1	1
Total	22	24

**Contract Law Division—Client Workload
Period Ending 03/27/99**

